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COMMITTEE AGAINST TORTURE

Twenty-second session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 385th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 10 May 1999, at 3 p.m.

Chairman: Mr. BURNS

CONTENTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (continued)

Third report of the Libyan Arab Jamahiriya (continued)

Third report of Egypt (continued)

* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.385/Add.1.

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The meeting was called to order at 3 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 5) (continued)

Third report of the Libyan Arab Jamahiriya (continued) (CAT/C/44/Add.3)

Conclusions and recommendations of the Committee (CAT/C/XXII/Misc.9/Add.6)

1. At the invitation of the Chairman, Mr. TLEBA and Ms. AL-HAJJA (Libyan Arab Jamahiriya) resumed their places at the Committee table.

2. The CHAIRMAN invited the Country Rapporteur to read out the conclusions and recommendations adopted by the Committee concerning the third periodic report of the Libyan Arab Jamahiriya (CAT/C/44/Add.3).

3. Mr. SØRENSEN (Country Rapporteur) read out the following text:

"1. The Committee considered the third periodic report of the Libyan Arab Jamahiriya (CAT/C/44/Add.3) at its 378th, 381st and 385th meetings, held on 5, 6 and 10 May 1999 (CAT/C/SR.378, 381 and 385) and has adopted the following conclusions and recommendations:

A. Introduction

2. The Committee welcomes the timely submission of the report prepared in accordance with the guidelines of the Committee. Likewise, the Committee welcomes the oral report of the representatives of the State party and the dialogue with them.

B. Positive aspects

3. The Committee wishes to reiterate its satisfaction, expressed in its conclusions when dealing with the State party's second periodic report, that the legal provisions of the State party generally conform with the requirements of the Convention.

4. Progress has been made in the efforts to improve education and information regarding prohibition against torture in the training of law enforcement personnel as well as medical personnel.

5. The Committee notes with satisfaction that application of corporal punishment has not been used in recent years.

C. Factors and difficulties impeding the application of the provisions of the Convention

6. The effect of the embargo on the State party, in force since 1992, which has not been lifted completely, causes severe difficulties in its economic and social life. However, such difficulties may not be invoked as justification for breaches of the provisions of the Convention, especially articles 1, 2 and 16.

D. Subjects of concern

7. It is a matter of concern for the Committee that neither the report nor the information given orally by the representatives of the Libyan Arab Jamahiriya provided the Committee with comments and answers that addressed substantially the subjects of concern indicated and the recommendations made by the Committee when dealing with the second periodic report of the State party in 1994. Consequently, the Committee reiterates inter alia the following subjects of concern:

(a) Prolonged incommunicado detention in spite of the legal provisions regulating it still seems to create conditions which may lead to violation of the Convention;

(b) The fact that allegations of torture in the State party continue to be received by the Committee.

8. It is a matter of concern for the Committee that, in practice, the State party had, in one incident, extradited persons to a country where there are substantive grounds for believing that they are in danger of being subjected to torture. The Committee did not agree with the State party that it was legally obliged to do so.

9. It is also a matter of concern that the wording of article 206 of the Penal Code could be an obstacle to the creation of independent human rights non-governmental organizations.

E. Recommendations

10. The Committee encourages the Libyan Government to consider making the declarations provided for under articles 21 and 22 of the Convention.

11. It also recommends that the law and the practices of the State party be brought in line with article 3 of the Convention.

12. The Committee further recommends that the Libyan authorities guarantee the free access of a person deprived of his liberty to a lawyer and to a doctor of his choice and to his relatives at all stages of detention.

13. The State party should send a clear message to all its law-enforcement personnel that torture is not permitted under any circumstances. In addition, those who committed the offence of torture should be subjected to a prompt and impartial investigation and rigorously prosecuted in accordance with the law.

14. Although corporal punishment has not been practised in recent years, it should be abolished by law."

4. Mr. TLEBA (Libyan Arab Jamahiriya) said he had been under the impression that the delegation had already answered the Committee's concerns. Perhaps it had not been clear from the interpretation that the isolated cases of torture

which had occurred had in no way been sanctioned by Libyan law. Ever eager to serve the cause of human rights, the Jamahiriya would be sure to implement the Committee's recommendations.

5. The CHAIRMAN thanked the delegation for its willingness to engage in constructive dialogue with the Committee.

6. The delegation of the Libyan Arab Jamahiriya withdrew.

The meeting was suspended at 3.15 p.m. and resumed at 3.30 p.m.

Third report of Egypt (continued) (CAT/C/34/Add.11)

7. At the invitation of the Chairman, the members of the delegation of Egypt resumed their places at the Committee table.

8. The CHAIRMAN invited the delegation of Egypt to respond to the questions put to it by the Committee at its 382nd meeting.

9. Mr. KHALIL (Egypt) said that the delegation would do its best to answer the Committee's questions orally. Additional written information would also be submitted, including police circulars from the Ministry of the Interior, prison inspection reports and information on conditions and medical care in prisons.

10. He had been somewhat taken aback by one question put by the Chairman. The reason the report had not addressed the question of whether torture was systematic in Egypt was that such allegations were totally groundless. Egypt was a democratic country governed by the rule of law, and its Government strove to ensure that its Constitution and other laws were respected. Every effort was made to comply fully with the Convention and other international instruments to which Egypt was a party.

11. While, as in all countries of the world, the occasional case of human rights abuse did occur, such abuses were far from being systematic. The Egyptian legal system, which had been praised by the Committee, provided the proper means for redress, and that was the criterion by which the country should be judged.

12. The Government was keen to supply the Committee with information it might need to investigate allegations of torture and in the meantime would continue its own investigations in cooperation with the competent governmental bodies and non-governmental organizations (NGOs). The latter were encouraged to take the Government to task in an atmosphere of transparency of which the Government was proud.

13. Egypt's two previous periodic reports had dealt in some detail with the incorporation of the Convention into domestic legislation. Following lengthy debate in connection with the Shari'a (Muslim code of religious law), the Court of Cassation had ruled that the Convention should prevail, if need be, over domestic law and that the term "torture" should be interpreted according to the definition contained in the Convention. The Penal Code made specific reference (in article 126) to the crime of torture, without any distinction as

to form. It was the responsibility of the court to determine on a case-by-case basis the extent of the pain or suffering inflicted and to fix the penalty accordingly. The crime of torture was punishable even if no attempt had been made to extract a confession, or if the confession obtained was proved correct. Punishment ranged from 3 to 10 years' imprisonment and could be even more severe if the torture resulted in the death of the victim. The Penal Code was continually being extended and updated, inter alia to cover the use of intimidation to inflict mental or physical harm, coercion to act against the law, the use of force against women and minors, and rules governing the use of firearms.

14. There had been no cases of repatriation or extradition of a person to a country in which he would be at risk from torture. Egypt complied fully in that regard with the relevant provisions of the Convention and any applicable bilateral agreements.

15. Egypt fully respected the provisions on universal jurisdiction of all international instruments to which it was a party, since those instruments were incorporated directly into national law.

16. Although confessions were commonly used in criminal convictions, the Attorney-General was obliged to ensure that they were both credible and voluntary, and to corroborate them with medical and other evidence.

17. His delegation wished to provide additional information concerning Egypt's Emergency Act (paragraphs 139 and 181 of the report) which was applicable if the stability and security of society were threatened by terrorism. The President of the Republic could declare a state of emergency only with the approval of Parliament. The legislative authority had the right to extend the state of emergency in the interests of the public, but the Constitution and Penal Code were not subject to suspension.

18. The periodicity of review of emergency detention had been reduced from six months to one month, and any complaints were addressed to the judiciary rather than, as before, to the President (paragraph 66 of the report). Only persons who posed a serious threat to security were arrested. They were detained in facilities determined by law and enjoyed the same privileges and rights as other prisoners. Detainees had the right, inter alia, to be told the grounds for their arrest, to inform a person of their choice that they had been detained, and to have access to legal counsel from the moment of their arrest.

19. Penal legislation provided for differentiated treatment of women only when they were the victims of rape, abortion, murder or other crimes which were considered to be particularly grave when perpetrated against women and carried severe sanctions. A provision exempting from punishment a man who had kidnapped and raped a woman but subsequently married her had recently been repealed. There was no discrimination against women in the penal law, in the Constitution or in any other area of legislation. If proven, the kidnapping by the police of women in order to bring pressure to bear upon their husbands was categorized as a crime.

20. Egypt had already replied to some of the cases raised by the Special Rapporteur on 5 November 1998 and inquiries were continuing in regard to the remainder. His government had not refused to receive the Special Rapporteur on torture; it was simply a matter of agreeing on dates that were convenient to all in order to ensure the success of his visit.

21. In reply to the question posed by Mr. Mavrommatis, a periodic review of the rules of investigation was conducted at the level of the Attorney-General's Office and the police authorities with a view to closing loopholes in the investigation process. A new requirement had recently been introduced that police officers and their subordinates and other public authority representatives must identify themselves in conducting any work or procedure; failure to do so entailed disciplinary penalties.

22. In reply to Mr. Camara's question, he confirmed that criminal evidence was disregarded if it had been obtained under duress, regardless of whether or not it was true, and an inquiry would be instituted.

23. In reply to the question raised by Mr. Yakovlev and Mr. Yu Mengjia about the contradiction between the decisions of the judicial authority and that of the Ministry of the Interior regarding the renewal of detention under the emergency law, he said that only persons who were considered to be a danger to society could be arrested, as a temporary preventive measure, and only in exceptional circumstances. Any judicial decision that was issued must be fully implemented and any act violating such a decision was a punishable offence. Detention could be renewed only if, upon their release, the detainees engaged in the same dangerous activities which constituted a threat to the stability of society.

24. The Egyptian delegation had submitted samples of the internal circulars on the subject of the investigative methods employed by the Ministry of the Interior.

25. Mr. EL-BELTAGY (Egypt) introduced some of the mechanisms and regulations that had been adopted by the Ministry of the Interior to protect human rights in Egypt. The Ministry had instituted legal procedures to deal with violations committed by its employees. The Monitoring and Inspection Department was responsible for monitoring the behaviour of employees to avoid any violation of human rights and fundamental freedoms and for examining complaints and subsequently reporting to the Minister. Complaints of violations of human rights and fundamental freedoms by employees of the Ministry, all of whom were under the authority of the Attorney-General would be investigated personally by him. Prisons were controlled by an administrative and legal system in order to ensure compliance with the stringent rules applicable. Training and information programmes for employees on human rights and fundamental freedoms had been stepped up for all grades. The Ministry of the Interior participated in the work of the Permanent National Committee for Human Rights, which operated under the auspices of the Ministry of Foreign Affairs and also included representatives from the Ministry of Justice and the Attorney-General's Office. High-ranking officials of the Ministry visited police centres in order to ensure that correct procedures were observed, and it had issued numerous official circulars to promote good treatment and prevent violence and inhumane treatment.

26. The offence of torture entailed civil as well as criminal responsibility and any individual convicted of it was required to pay compensation. Research had been conducted by the Police Academy and the Police Research Centre to identify any areas in which violations might occur. Since mid-1997, a number of circulars had been issued to promote good relations between the police and citizens, with a view to enhancing performance and drawing attention to past violations. The report contained statistics on the number of police officers who had been prosecuted for such offences, to which should be added the most recent figures of 5 officers whose cases had been referred to the Attorney-General for investigation, 3 officers who had been referred to disciplinary councils within the Ministry, and 67 officers who had incurred disciplinary and administrative penalties, all in connection with torture and brutal or inhuman treatment, which reflected the serious attitude of the authorities to such abuses.

27. In reply to questions put by Mr. Burns, Mr. Sørensen and Mr. Mavrommatis, he said that police officers in Egypt studied law and took specialized courses in security matters during their four-year training at the Police Academy, after which the officer graduated with a B.Sc. in law, similar to that offered at other Egyptian universities. Consequently, officers could apply the law effectively, particularly in view of the substantial human rights component of their studies. All applicants to the Police Academy underwent a psychiatric examination and interview in order to ascertain whether they were fit for the security tasks that they would be required to carry out. Continuous training, including instruction on human rights, was given throughout their career. The training of police support staff and police representatives was equally rigorous.

28. It was not true that the Egyptian police relied almost exclusively on obtaining a confession as evidence. On the contrary, the police force worked with highly trained personnel and the latest technical tools such as forensic laboratories. The high esteem in which the Egyptian police force was held was reflected in the fact that many students from Arab and African countries, and from the Commonwealth of Independent States, attended the training academy. The delegation had already referred to the mechanisms and criteria that governed police operations and had demonstrated the high level of training of police officers and support personnel, which addressed the remark concerning the treatment of citizens by the police.

29. In response to the reference by Mr. Burns to the Egyptian NGO report on prisons entitled "Empty stomachs and dirty water" and the use of corporal punishment as a disciplinary measure in prisons, he said that Egypt had been one of the first countries that had sought to provide in its national legislation for a minimum level of treatment of prisoners in compliance with international standards on the classification and distribution of prisoners, living conditions, visits and prisoners' rights in regard to medical care, correspondence, legal counsel and continuing their studies. The Ministry of the Interior had drawn up an ambitious plan for prison development, on the basis of available resources. Prisoners were helped to adapt to the social environment through the implementation of modern policies. Prisons were routinely investigated by the competent judicial authorities in order to ensure that all rules were respected and that measures were taken against any misconduct or irregular behaviour. All prisoners could submit complaints to

the prison officer, who must transmit them to the proper judicial authority for investigation. The quality of the food served in prisons conformed to the most recent internationally recognized standards. An Egyptian NGO that looked after the interests of prisoners and their families did highly effective work.

30. Every prison had a doctor on duty 24 hours a day and a clinic providing inmates with medical and health care. There was also a well-equipped central prison hospital in each region for more difficult cases and contacts were maintained with university and other hospitals with expertise in specialized fields. As from the end of 1998, the Prison Department at the Ministry of the Interior had concluded contracts with 125 Ministry of Health doctors for service in the country's central prisons. Many prison hospitals had recently been modernized and new clinics had been built.

31. "Hard labour" was a term inherited from the past. The images it conjured up bore no relation to the ordinary manual or technical labour currently carried out in prisons, which took account of inmates' wishes and aptitudes and was designed to assist in reintegrating them into society on their release. The number of working hours was regulated and the work was remunerated.

32. Corporal punishment had been replaced by such disciplinary measures as temporary solitary confinement or temporary suspension of visits.

33. Training courses for prison officers covered areas such as social science and psychology and were given by highly qualified academics. Some prison officers, both male and female, were arts and social science graduates. Their expertise was used to improve the social and psychological environment in prisons and to prepare inmates for life in society after their release.

34. All prison officers were supervised by the Monitoring and Inspection Department at the Ministry of the Interior and by the Department of Public Prosecutions, which investigated complaints and took appropriate disciplinary action in the light of their findings.

35. The social, cultural and economic status of prison officers was comparable to that of their peers in other law enforcement branches. They actually enjoyed a number of financial advantages to compensate for the nature of their work.

36. Police officers did not enjoy immunity either under the Emergency Act or under ordinary legislation but were subject to criminal investigation and liable to disciplinary sanctions under the Police Act. Egypt's report contained statistics regarding criminal and disciplinary proceedings against members of the police force.

37. Mr. FAHMI (Egypt) said that the El-Khosheh case was an ordinary murder case that had been exploited by the media to discredit Egypt through mendacious reports and allegations of fomenting intercommunal strife. Fifteen people who had been arrested and held in Dar al-Salaam police station had allegedly been beaten and tortured by police officers to coerce them into confessing to a murder. The Department of Public Prosecutions had investigated the allegations. The police officers accused of ill-treatment

had denied all the charges. The plaintiffs had been examined by forensic medical experts to establish the nature of their injuries and the time and manner of their infliction. According to the medical report, five of the plaintiffs suffered from skin diseases and eczema. One had sustained a fracture of his right foot in a car accident. Others displayed injuries due to scratching or friction which had apparently been inflicted deliberately by a coin or medal 72 hours before the medical examination. One had an injury to his right eye and another to his left ear, neither of which had been sustained as a result of a recent assault. No traces of injuries due to torture or ill-treatment had been found. The Department of Public Prosecutions had therefore dismissed the criminal charges as unsubstantiated. Although the Department welcomed complaints from all sources, it urged the bodies concerned to verify the accuracy of their information with the competent authorities.

38. The Department of Public Prosecutions had ordered the arrest of Mr. Hafez Abou Seada on receiving information to the effect that he had received funds from abroad to publish a report containing exaggerated and unfounded information of a nature likely to foment intercommunal strife and undermine State security. Such activities were punishable under Egyptian law and contrary to a recommendation by the Egyptian Organization of Human Rights against the acceptance of funds from foreign government sources. Mr. Abou Seada had been released after a few days. The investigation was continuing and charges would be brought if sufficient evidence was obtained to establish that there had been a breach of the Criminal Code. Egyptian legislation was consistent with article 13 of the recently adopted United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (commonly known as the Declaration on human rights defenders), which stipulated that NGOs, in exercising their right to raise funds, should respect national legislation.

39. With regard to the Belquas case relating to the death in police custody of Wahid Ahmed Abdullah, the Department of Public Prosecutions had instituted an investigation. The victim had undergone an autopsy. One senior and five junior police officers had been charged with torture, murder, sexual harassment and unlawful arrest. They would be tried in the competent criminal court.

40. Egyptian legislation guaranteed the right to legal representation from the time of arrest. Any violation of that right entailed disciplinary action. Access to a doctor depended on the state of health of the arrested person. Under the Prisons Act, all detainees were guaranteed full medical care.

41. A Human Rights Office under the Assistant Attorney-General had been established at the Department of Public Prosecutions in 1993 to investigate complaints of human rights violations. Qualified staff were currently available to deal with such complaints rapidly and effectively. The report provided details of the cases investigated.

42. The Department was responsible for ensuring that speedy action was taken on allegations of torture or ill-treatment. Its unannounced visits to places of detention helped to prevent ill-treatment and unlawful detention.

43. Forensic medicine was highly developed in Egypt, covering all fields of specialization and using state-of-the-art equipment. Practitioners were given regular opportunities to update their skills. Their services were of particular importance in investigating allegations of torture or ill-treatment. Where special expertise was required, the Forensic Medicine Authority consulted specialists in university medical faculties or scientific research centres.

44. Egyptian legislation did not set a time limit for the completion of investigations by the Department of Public Prosecutions. The duration of an investigation depended on the circumstances of each case. Police investigations were limited to 24 hours, following which the case was referred to the Department.

45. Staff members of the Department of Public Prosecutions enjoyed judicial immunity to ensure their independence and impartiality in dealing with complaints. The Department supervised the activities of the police force and other law enforcement agencies.

46. Capital punishment was executed by hanging. The delegation had been unable to obtain the statistics on capital punishment requested by the Committee but would forward them in due course.

47. Information about sexual harassment of women would also be supplied as soon as possible.

48. All citizens had the right to file complaints and the duty to report any crime of which they had knowledge. The Department of Public Prosecutions investigated all complaints, even from third parties provided that they were acting with the consent of the alleged victim. The results of the investigation were announced only to the victim and the accused or their representatives. The Department was required to inform the victim of a decision to close a case so that he or she could file an appeal.

49. The CHAIRMAN, speaking as Country Rapporteur, asked whether the right of access to a lawyer and doctor of one's choosing from the time of arrest had been maintained under the Emergency Act or whether provision had been made for incommunicado detention.

50. The delegation's account of the El-Kosheh case was so different from that contained in the report of an Egyptian NGO that he had found himself wondering whether they were referring to the same case. The persons interviewed by the NGO seemed to be different from those examined by the forensic experts of the Department of Public Prosecutions. The NGO claimed to have seen the physical sequelae of torture.

51. The offence for which Mr. Hafez Abou Seada had been arrested was, according to the delegation, that of accepting foreign funding for his publication and engaging in activities that were designed to cause intercommunal strife. Drawing the attention of the delegation to a report by Mr. Abou Seada, he asked whether that was the document that had led to his arrest. If so, it seemed to be couched in the sober language typical of a responsible NGO and was unlikely to incite anybody to commit violent acts.

52. Mr. KHALIL (Egypt) responded to the first question by assuring the Committee that the Emergency Act entitled detainees to have access to a lawyer and a doctor from the moment of arrest. That right was clearly guaranteed for all persons in detention in Egypt.

53. As for the apparent contradiction between the report of the NGO and the findings of the Department of Public Prosecutions, the acts in question were of a criminal nature and bore no relation to the Emergency Act, as the case had been handled under ordinary legal procedure. The plaintiffs had failed to produce any evidence of acts of torture. Those who had invoked physical traces on their bodies had been unable to prove they had anything to do with ill-treatment. In addition, the accounts given by the plaintiffs had been full of discrepancies. It was unfortunate that the authors of the report had exploited the situation with the aim of fomenting sectarian unrest and innocent civilians had paid the price. The organization in question had relied on rhetoric and baseless accusations, and had not consulted the competent institutions to check on the veracity of the allegations. When such allegations were put to the authorities, of course they were verified with the utmost care. In such circumstances, the findings of the Department of Public Prosecutions would be the only credible source.

54. The CHAIRMAN thanked the Egyptian delegation for the enormous amount of work it had put into replying to the Committee's questions.

55. The delegation of Egypt withdrew.

The public part of the meeting rose at 5.25 p.m.